

2022 Regular Session

HOUSE BILL NO. 389

BY REPRESENTATIVE PRESSLY

PRESCRIPTION: Provides relative to emergency suspension of legal deadlines

1 AN ACT

2 To amend and reenact Civil Code Articles 3461 and 3472.1, to enact Code of Civil
3 Procedure Article 196.2, and to repeal Code of Civil Procedure Article 562, relative
4 to prescription and peremption; to provide for emergency suspension of certain
5 prescription and peremption periods; to provide for the emergency suspension of
6 abandonment periods; to provide relative to the Louisiana Supreme Court; to provide
7 for emergency extension of certain deadlines; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Civil Code Articles 3461 and 3472.1 are hereby amended and reenacted
10 to read as follows:

11 Art. 3461. Renunciation, interruption, or suspension ineffective

12 ~~Peremption~~ Except as otherwise provided by law, peremption may not be
13 renounced, interrupted, or suspended.

14 * * *

15 Art. 3472.1. Emergency suspension of prescription and peremption

16 ~~A.~~ Notwithstanding any other ~~provisions~~ provision of the law or any
17 provision of an executive order or proclamation, in the event the governor, in
18 response to ~~declares~~ a state of emergency or disaster, issues an executive order or
19 proclamation pursuant to R.S. 29:721 through 772, ~~the Supreme Court of Louisiana~~
20 ~~may enter an order or series of orders as deemed necessary and appropriate to~~

1 suspend all prescriptive and preemptive periods for a period of time not to exceed
2 ninety days. Thereafter, should the need for continuing suspension be necessary to
3 preserve access to the courts, the governor may issue executive orders as deemed
4 appropriate. The period of suspension authorized by the provisions of this Article
5 shall terminate upon the earlier of an order of the Supreme Court of Louisiana or
6 upon termination of the declared state of disaster or emergency. Nothing in this
7 Article limits the authority of the governor or the legislature to act in accordance
8 with its authority 775 that purports to suspend or extend liberative prescriptive or
9 preemptive periods in all or part of the state, the executive order or proclamation
10 shall have the effect of suspending only those liberative prescriptive or preemptive
11 periods that would have otherwise accrued during the period of time specified in the
12 order or proclamation or, if no period of time is specified, during the duration of the
13 effectiveness of the executive order or proclamation. Upon the termination of the
14 period of suspension, liberative prescription or preemption commences to run again
15 and accrues upon the earlier of thirty days after the expiration of the period of
16 suspension or in accordance with the period of time as calculated pursuant to Article
17 3472.

18 B. ~~The right to file any pleading subject to the suspension as provided by~~
19 ~~Paragraph A of this Article shall terminate sixty days after the termination of the~~
20 ~~suspension as provided by Paragraph A of this Article.~~

21 Section 2. Code of Civil Procedure Article 196.2 is hereby enacted to read as
22 follows:

23 Art. 196.2. Power of Supreme Court to extend deadlines during emergencies

24 In the event that the governor declares a state of emergency or disaster
25 pursuant to R.S. 29:721 through 775, the Supreme Court of Louisiana, rather than
26 the governor, may issue orders suspending or extending deadlines applicable to legal
27 proceedings in courts, including periods of time applicable for abandonment of
28 actions, in all or part of the state of Louisiana. A court order suspending or
29 extending deadlines applicable to legal proceedings in courts shall have the effect of

1 extending only those deadlines that would have otherwise run during the period of
 2 time specified in the order. After the period of suspension or extension has expired,
 3 a party shall have an amount of time as specified in the court order to file any
 4 pleading affected by the suspension or extension. If no amount of time is specified,
 5 a party shall have thirty days after the period of suspension or extension has expired.
 6 Section 3. Code of Civil Procedure Article 562 is hereby repealed in its entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 389 Engrossed

2022 Regular Session

Pressly

Abstract: Provides relative to periods of prescription, peremption, and abandonment during declared emergencies or disasters.

Present law (C.C. Art. 3447) provides that liberative prescription is a mode of barring actions as a result of inaction for a period of time.

Present law (C.C. Art. 3458) provides that peremption is a period of time fixed by law for the existence of a right. Present law provides that unless timely exercised, the right is extinguished upon the expiration of the preemptive period.

Present law (C.C. Art. 3467) provides that prescription runs against all persons unless legislation establishes an exception.

Present law (C.C. Art. 3461) provides that peremption may not be renounced, interrupted, or suspended.

Proposed law changes present law and adds that the law may provide exceptions to present law.

Present law (C.C. Art. 3472.1) provides for the emergency suspension of prescription and peremption in the event that the governor declares a state of emergency or disaster pursuant to present law (R.S. 29:721-772; La. Homeland Security and Emergency Assistance and Disaster Act, National Guard Mutual Assistance Counter-Drug Activities Compact, and La. Health Emergency Powers Act).

Present law provides that if the governor declares a state of emergency or disaster, the La. Supreme Court may suspend all prescriptive and preemptive periods for up to 90 days.

Present law provides for continuing suspensions.

Present law provides that the suspension period will terminate upon the earlier of a supreme court order or termination of the declared state of emergency or disaster. Present law provides that the right to file any pleading subject to the suspension as provided in present law shall terminate 60 days after the suspension terminates.

Proposed law changes present law and provides that if the governor declares a state of emergency or disaster and issues an order that suspends or extends the liberative prescriptive

and peremption periods, the executive order or proclamation shall have the effect of suspending only those liberative prescriptive or preemptive periods that would have otherwise accrued during the time specified in the order or duration of the order's effectiveness.

Proposed law provides that when the suspension period terminates, liberative prescription or peremption commences to run again and accrues upon the earlier of 30 days after the expiration of the period of suspension or in accordance with time as calculated in present law (C.C. Art. 3472).

Present law (C.C. Art. 3472) provides that a period of suspension is not counted toward the accrual of prescription. Present law provides that prescription commences to run again upon the termination of the period of suspension.

Proposed law (C.C.P. Art. 196.2) provides that when the governor declares a state of emergency or disaster pursuant to present law (R.S. 29:721-775), the supreme court, rather than the governor, may suspend or extend deadlines applicable to legal proceedings in court, including abandonment of actions.

Present law (C.C.P. Art. 561) provides that an action is abandoned when the parties fail to take any step in its prosecution or defense in the trial court for three years. An appeal is abandoned when parties fail to take any step in its prosecution or disposition or disposition for the period provided in the rules of the appellate court.

Proposed law (C.C.P. Art. 196.2) provides that the suspension or extension of deadlines applicable to legal proceedings shall only extend deadlines applicable to legal proceedings that would have otherwise run during the period of time in the order. After the suspension or extension period has expired, a party shall have an amount of time as specified in the court order to file any pleading affected by the suspension or extension. Proposed law provides that if no amount of time is specified, the parties shall have 30 days after the period has expired.

Present law (C.C.P. Art. 562) provides that when the governor declares a state of emergency or disaster pursuant to present law (R.S. 29:721-775) the supreme court may suspend the period of abandonment for a period of time not to exceed 90 days. Present law provides for continuing suspensions.

Present law provides that the suspension period will terminate upon the earlier of a supreme court order or termination of the declared state of emergency or disaster. Present law provides that the right to file any pleading subject to the suspension as provided in present law shall terminate 60 days after the suspension terminates.

Proposed law repeals present law.

(Amends C.C. Arts. 3461 and 3472.1; Adds C.C.P. Art. 196.2; Repeals C.C.P. Art. 562)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Change that suspended liberative prescription or preemptive periods recommence to run again during the time specified in the order or proclamation or, if no specified time, from 10 days to 30 days after the executive order or proclamation was issued.

2. Change the amount of time a party shall have to file any pleading affected by the suspension from 10 days to 30 days after the period of suspension or extension has expired.
3. Clarify that the governor may issue an executive order or proclamation.